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E-01773A-01-0465
E-01750A-01-0465

June 1, 2001

VIA HAND DELIVERY

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Re: *Amendment No. 1 to the Non-Firm Agreement Between Mohave Electric Cooperative, Arizona Electric Power Cooperative and North Star Steel (North Star "Amendment No. 1"); Docket Nos. E-01773A-98-0470 and E-01787A-98-0465MEC*

Dear Sir/Madam:

Enclosed for filing and Commission approval is North Star Amendment No. 1 which relates to the Non-Firm Electric Service Agreement dated August 16, 1994. That Agreement was approved by the Commission in Decision No. 58795 dated October 14, 1994. Certain confidential data has been redacted from this filing, but a complete agreement has been filed under separate cover with Staff. Among other things, the North Star Amendment No. 1 settles a dispute among the parties and the Commission in relation to AEPCO and Mohave's Stranded Cost proceedings in the above-identified dockets.

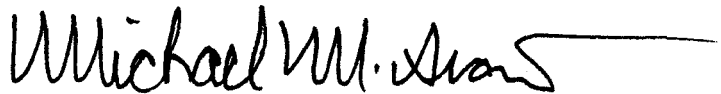
In AEPCO's Stranded Cost Order, Decision No. 62758, the Commission deferred to Mohave's Stranded Cost proceeding the issue of the applicability to North Star of the Regulatory Assets Charges and Competitive Transition Charge. North Star and Mohave appealed that decision to the Superior Court and Court of Appeals. Section 6.3 of the North Star Amendment No. 1 resolves that issue and provides that those appeals will be dismissed following regulatory approval.

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Commission approval is requested no later than its July 24 Open Meeting so that dismissal of the appeals may be accomplished prior to commencement of briefing. Questions concerning this filing may be directed to the undersigned or Jim Rein at AEPCO (520) 547-7919.


Very truly yours,

GALLAGHER & KENNEDY, P.A.



By:
Michael M. Grant

ORIGINAL and 10 copies filed
with the Docket Control this 1st
day of June, 2001.


cc: Janice Alward, ACC Legal (w/encl.)
Phil Chabot, North Star (w/encl.)
Paul Michaud, Mohave (w/encl.)
Patricia Cooper (w/encl.)
Jim Rein (w/encl.)

MMG/lmm
10421-0024/930518

**AMENDMENT NO. 1
TO THE
NON-FIRM ELECTRIC SERVICE AGREEMENT
AMONG
MOHAVE ELECTRIC COOPERATIVE, INC.,
ARIZONA ELECTRIC POWER COOPERATIVE, INC.,
AND
NORTH STAR STEEL COMPANY**

This Amendment Number 1 ("Amendment No. 1") to the Non-Firm Electric Service Agreement dated August 16, 1994 ("Agreement") is entered into by and among Mohave Electric Cooperative, Inc. ("MOHAVE ELECTRIC"), Arizona Electric Power Cooperative, Inc. ("AEPCO") and North Star Steel Company ("NORTH STAR" or "Purchaser"). MOHAVE ELECTRIC, AEPCO and North Star are referred to herein individually as "Party" and collectively as "Parties." MOHAVE ELECTRIC and AEPCO are sometimes referred to herein as "SELLERS."

1. RECITALS:

This Amendment No. 1 is made with reference to the following facts, among others:

- 1.1 Section 5.6.2 of the Agreement states: "NORTH STAR may unilaterally terminate this Agreement if the Parties attempt to renegotiate, pursuant to Section 14.4, but cannot agree on a substitute Margin Multiplier, as defined in Section 14.3, within one hundred twenty (120) days after the effective date of a new law or final administrative order, not subject to appeal, which allows retail wheeling. Provided, however that NORTH STAR may not so terminate this Agreement prior to the fifth anniversary of the commencement of General Service."
- 1.2 General Service under the Agreement commenced on July 1, 1996. Therefore, pursuant to the Section 5.6.2 of the Agreement, the earliest NORTH STAR may possibly have terminated the Agreement is July 1, 2001.

- 1.3 In anticipation of the implementation of customer choice in electric generation ("retail wheeling") in the State of Arizona, NORTH STAR, by letter to AEPCO and MOHAVE ELECTRIC, dated May 14, 1999, stated that as a result of rising energy prices, the existing Margin Multiplier had become "excessive and burdensome" and, while direct access had not received final approval in Arizona, nevertheless requested that negotiations commence for a new Margin Multiplier.
- 1.4 While the conditions required by Section 5.6.2 of the Agreement to commence negotiation on a substitute Margin Multiplier have not yet fully occurred, the SELLERS have responded to NORTH STAR's request to amend the Agreement in recognition of certain changes in market conditions.
- 1.5 This Amendment No. 1 represents the Parties' intent to compromise and settle certain disputed issues regarding the Margin Multiplier and the level of AEPCO's continuing duties under the Agreement.

2. **AGREEMENT:**

In considerations of the premises and mutual covenants contained herein, the Parties agree as follows:

3. **DEFINITIONS:**

The terms with initial capitalization used in this Amendment No. 1 shall have the same meaning as set forth in the Agreement, unless otherwise defined herein.

4. **EFFECTIVE DATE AND TERM:**

- 4.1 This Amendment No. 1 shall become effective upon its execution and delivery by the Parties and the approval of the Rural Utilities Service ("RUS") and Arizona Corporation Commission ("ACC"), if such approval is required, and shall remain in effect concurrently with the term of the Agreement.
- 4.2 Notwithstanding the effective date of this Amendment No. 1, the rates and charges payable by North Star to AEPCO pursuant to Exhibit E shall become immediately effective upon the execution of this Amendment by AEPCO and NORTH STAR and the charges payable by North Star to MOHAVE ELECTRIC pursuant to Exhibit F shall become immediately effective upon the execution of this Amendment No. 1 by NORTH STAR and MOHAVE ELECTRIC.

- 4.3 Should the RUS or ACC subsequently disapprove this Amendment No. 1 or require any material changes or material modifications to this Amendment No. 1 that are unacceptable to any Party, this Amendment No. 1, including but not limited to the agreement set forth in Section 6.3 and its Exhibits E and F shall become null and void and shall not be binding on any Party for any purpose other than that set forth in this Section 4.3 and the Parties shall thereafter make appropriate financial arrangements whereby AEPCO and MOHAVE ELECTRIC shall recover from NORTH STAR and NORTH STAR shall pay the amounts in addition to those paid by NORTH STAR hereunder which would have been due under the unamended Agreement. Further, in the event of such disapproval or unacceptable requirement for change or modification, the Parties shall negotiate in good faith to modify, within sixty (60) days of the receipt of RUS and/or ACC written notice of such disapproval or unacceptable requirement for change or modification, this Amendment No. 1 so as to attempt to secure all such approvals.

5. AMENDMENTS:

Except as provided herein, all other terms and provisions of the Agreement shall remain in full force and effect. The Agreement is hereby amended as follows:

- 5.1 Section 5.6 of the Agreement is hereby deleted and the following substituted therefore:

"5.6 This Agreement is subject to early termination as follows:

5.6.1 Any Party may terminate this Agreement by providing one hundred and twenty day's (120) advance written notice to the other Parties.

5.6.2 In the event of early termination, any and all financial obligations incurred by a Party prior to such termination shall survive until fully satisfied."

- 5.2 Section 14.1.1 of the Agreement is hereby deleted and the following substituted therefore:

"14.1.1 The actual total cost incurred by AEPCO, as charged by entities other than AEPCO and Western, for purchasing, transmitting and scheduling for delivery to a receipt point on the Western Transmission System of Non-Firm Energy on behalf of MOHAVE ELECTRIC and NORTH STAR for the Billing Month (Energy Purchase Cost)."

5.3 Section 14.1.2 of the Agreement is hereby deleted and the following substituted therefore:

"14.1.2 The price as quoted by AEPCO for Non-Firm Energy from AEPCO's generation resources for delivery into the Western Transmission System for MOHAVE ELECTRIC and NORTH STAR for the Billing Month (Generation Cost)."

5.4 A new Section 14.1.6 is hereby added to the Agreement as follows:

"14.1.6 The total AEPCO Markup shall consist of the "Monthly Operations Charge" which shall be fixed and payable in accordance with the schedule of charges amounts set forth in Exhibit E to this Amendment No. 1 attached hereto and incorporated herein."

5.5 A new Section 14.1.7 is hereby added to the Agreement as follows:

"14.1.7 The MOHAVE ELECTRIC Franchise Charge which shall be fixed and payable in the amounts set forth in Exhibit F to this Amendment No. 1 attached hereto and incorporated herein."

5.6 A new Section 14.1.8 is hereby added to the Agreement as follows:

"14.1.8 The AEPCO Re-Marketing Fee for AEPCO to market NORTH STAR's excess resources plus the costs of any applicable transmission charges, ancillary services and losses associated with the sale. "

5.7 Section 14.3 of the Agreement is hereby deleted and the following substituted therefore:

"14.3 The monthly North Star Plant kilowatt-hour consumption as metered at the McConnico Switching Station shall be the basis of the AEPCO Monthly Charge assessed against North Star in accordance with Exhibit E and the AEPCO Monthly Charge shall equal the sum of the applicable Block Charges for such consumption as set forth in Exhibit E to this Amendment No. 1."

- 5.8 Section 14.4 of the Agreement is hereby deleted and the following substituted therefore:

- 5.9 Section 14.5 of the Agreement is hereby deleted.

6. MISCELLANEOUS:

The following provisions are hereby made a part of this Amendment No. 1:

- 6.1. SELLERS shall submit this Amendment No. 1 to RUS and to ACC promptly upon its execution by all Parties and shall diligently pursue written approvals by RUS and ACC of this Amendment No. 1.
- 6.2. AEPCO contemplates the transfer of certain of its operations and business functions to Southwest Transmission Cooperative, Inc. and to Sierra Southwest Cooperative Services, Inc., two cooperatives to be created as part of the restructuring of AEPCO. Notwithstanding such restructuring, the Agreement and this Amendment No. 1 shall remain with AEPCO and AEPCO shall retain the rights and obligations of the Agreement and this Amendment No. 1 in accordance with their terms.
- 6.3. AEPCO has sought the payment of a certain regulatory assets charge (RAC) and competitive transition charge (CTC) by NORTH STAR in a case before the ACC entitled *In the Matter of the Application by Arizona Electric Power Cooperative, Inc. for Approval of its Filing as to*

Regulatory Assets and Transition Revenues, Docket No. E-01773A-98-0470. In consideration of this Amendment No. 1, AEPCO, MOHAVE ELECTRIC and NORTH STAR hereby agree that no CTC or RAC shall be imposed upon NORTH STAR and neither AEPCO nor MOHAVE ELECTRIC will seek regulatory approval to collect any such charge from NORTH STAR in that Docket (No. E-01773A-98-0470), or *In the Matter of Stranded Cost Filing and Request for Waiver of Certain Portions of the Rules Filed by Mohave Electric Cooperative, Inc.*, Docket No. E-1787A-98-0465MEC, or in any other pending or future proceeding. The Parties shall enter into a stipulation of settlement to that effect in connection with Docket No. E-01773A-98-0470 and E-1787A-98-0465 MEC and shall, upon execution and regulatory approval of this Amendment No. 1, jointly seek dismissal of *North Star Steel Co. v. Arizona State Corporation Commission* (Docket No. CV 2000-018281) and *Mohave Electric Cooperative, Inc. v. Arizona State Corporation Commission* (Docket No. CV 2000-018251), both pending in the Arizona Superior Court, County of Maricopa and of *North Star Steel Co. v. Arizona State Corporation Commission* (Docket No. 1CA-CC 00-0005) and *Mohave Electric Cooperative, Inc. v. Arizona State Corporation Commission* (Docket No. 1CA-CC 00-0004) MEC, both pending in the Arizona Court of Appeals and otherwise assist AEPCO in any resolution of such matters with the ACC in accordance with the terms of this Amendment No. 1.

- 6.4 AEPCO shall be the marketing agent for NORTH STAR for purposes of the Agreement until such time as NORTH STAR designates a new marketing agent NORTH STAR may, in its sole discretion, change its purchasing agent by designating any FERC approved marketing agent to perform all marketing duties contemplated in the Agreement. In such event, NORTH STAR shall provide written notification of such change to the SELLERS sixty (60) days in advance of the date a new marketing agent is to accept the scheduling [or purchasing] responsibilities. Such written notice shall include information sufficient to effect an orderly transfer of those responsibilities and obligations from AEPCO to the marketing agent. Immediately after such substitution, the AEPCO Monthly Charge for its reduced scheduling responsibilities shall be and not the AEPCO Monthly Charge as set forth in the Exhibit E Schedule of Charges and subject to future increases determined at the time of such substitution. Upon notification by NORTH STAR of a change in marketing agent, NORTH STAR and AEPCO shall, within the sixty (60) day notice period, develop the new scheduling instructions. Once a change in marketing agent has been made by NORTH STAR 1) no such substitute or further substitute shall increase AEPCO's responsibilities under this Amendment No. 1 and a new Monthly Charge shall be negotiated prior to AEPCO undertaking any other changes in

scheduling responsibilities; and 2) NORTH STAR may redesignate AEPCO as its marketing agent only after consultation with and agreement by AEPCO.

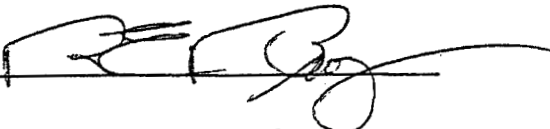
6.5 As amended by this Amendment No. 1, the Agreement shall remain in full force and effect.

7. SIGNATURES AND COUNTERPARTS:

This Amendment No. 1 may be executed in any number of counterparts, and upon execution of this Amendment No. 1 by all Parties, each counterpart shall be binding, and all executed counterparts shall together have the same force and effect as an original instrument as if all Parties had signed the same instrument. The officers of the Parties as set forth below are duly authorized to execute this Amendment No. 1 on behalf of their respective entities.

IN WITNESS WHEREOF, this Amendment No. 1 is hereby executed this 25th day of May, 2001.

MOHAVE ELECTRIC COOPERATIVE, INC.

By: 
Its: Chief Executive Officer

Dated: May 25, 2001

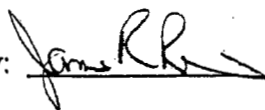
ATTEST:

By: Sharon Sutton

Its: Administrative Assistant

Dated: May 25, 2001

ARIZONA ELECTRIC POWER COOPERATIVE, INC.

By: 

Its: Director of Sales

Dated: April 26, 2001

ATTEST:

By: 

Its: Sales Assistant

Dated: April 26, 2001

NORTH STAR STEEL COMPANY

By: 

Its: General Manager

Dated: 4/25/01

ATTEST:

By: _____

Its: _____

Dated: _____

